

**FEDERAL COMMUNICATIONS COMMISSION**  
**445 TWELFTH STREET SW**  
**WASHINGTON DC 20554**

**MEDIA BUREAU**

**AUDIO DIVISION**

**APPLICATION STATUS:** (202) 418-2730

**HOME PAGE:** [www.fcc.gov/media/radio/audio-division](http://www.fcc.gov/media/radio/audio-division)

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April 16, 2019

Empire Broadcasting Corporation  
100 Saratoga Village Blvd.  
Suite 21  
Malta, NY 12020

Re: Empire Broadcasting Corporation  
WAIX(AM), Mechanicville, New York  
Facility Identification Number: 41582  
Special Temporary Authority

Dear Applicant:

This is in reference to the request filed April 15, 2019 on behalf of Empire Broadcasting Corporation ("EBC"). EBC requests special temporary authority ("STA") to operate station WAIX(AM) with reduced power.<sup>1</sup> In support of the request, EBC states that there is an issue with an amplifier in the WAIX(AM) transmitter and the station can only operate with 4 kilowatts. Thus, until the transmitter issue can be repaired, the station requests STA to operate with a reduced daytime power. In addition, station WAIX(AM) has been silent since May 14, 2018 and therefore must resume broadcast operations by 12:01 a.m., May 15, 2019 or its license will expire as a matter of law.

Section 73.1560(d), which governs reduced power operation, states:

In the event it becomes technically impossible to operate at authorized power, a broadcast station may operate at reduced power for a period of not more than 30 days without specific authority from the FCC. If operation at reduced power will exceed 10 consecutive days, notification must be made to the FCC in Washington, DC, Attention: Audio Division (radio) or Video Division (television), Media Bureau, not later than the 10<sup>th</sup> day of the lower power operation. In the event that normal power is restored within the 30 day period, the licensee must notify the FCC of the date that normal operation was restored. If causes beyond the control of the licensee prevent restoration of the authorized power within 30 days, a request for Special Temporary Authority (see Section 73.1635) must be made to the FCC in Washington, DC for additional time as may be necessary.

Our review indicates that the request complies with Section 73.1560(d).

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<sup>1</sup> WAIX(AM) is licensed on 1160 kHz with a daytime power of 5 kilowatts and a nighttime power of 0.57 kilowatt, employing a non-directional antenna pattern (ND1-U).

Accordingly, the request for STA IS HEREBY GRANTED. Station WAIX(AM) may operate with a reduced daytime power of 4 kilowatts until the transmitter is repaired. No changes are proposed to the nighttime operation. WAIX(AM) must notify the Commission when licensed operation is restored. In addition, the station must use whatever means are necessary to protect workers and the public from exposure to radio frequency radiation in excess of the Commission's exposure guidelines. *See* 47 CFR § 1.1310.

This authority expires on **October 13, 2019**.

Notwithstanding the grant of this STA or the expiration date specified herein, the station's license will expire as a matter of law if broadcast operations do not commence by 12:01 a.m., May 15, 2019. *See* Pub. Law No. 104-104, 110 Stat. 56, Section 403(1)(1996) and *Order, Silent Station Authorizations*, FCC 96-218 (released May 17, 1996). *See also Public Notice, Expedited Processing of Applications Filed by Silent Stations*, DA 96-818 (May 22, 1996). The licensee must notify the Audio Division immediately upon resumption of broadcasting.

**STA Advisory:** Section 309(f) of the Communications Act of 1934, as amended, authorizes the Commission to grant STA in cases of "extraordinary circumstances requiring temporary authorizations in the public interest and when delay in the institution of the temporary operations would seriously prejudice the public interest." However, Section 309(f) is not a means by which a licensee/permittee may circumvent established processing procedures which require the filing of an application, nor is it a means by which a broadcaster may enhance his facility or make operation more convenient for the broadcaster. Stations operating with less than licensed facilities under temporary authorities can be viewed as receiving the benefit of a larger protection area than that in which they are currently providing service.

Accordingly, Special Temporary Authorities by nature are to be temporary and are not intended for extended use. Licensees of stations operating under temporary authorities are reminded that timely restoration of permanent facilities is the responsibility of the licensee and should be undertaken expeditiously. Any request for extension of special temporary authorities carries an increased burden with each subsequent request.

Therefore, requests for extension of STA will be granted only where the licensee can show that one or more of the following criteria have been met:

- Restoration of licensed facilities is complete and testing is underway;
- Substantial progress has been made during the most recent STA period toward restoration of licensed operation; or

- No progress has been made during the most recent STA period for reasons clearly beyond the licensee's control, and the licensee has taken all possible steps to expeditiously resolve the problem.

Sincerely,

A handwritten signature in dark ink, reading "Jerome J. Manarchuck". The signature is fluid and cursive, with the first name "Jerome" and last name "Manarchuck" clearly legible.

Jerome J. Manarchuck  
Audio Division  
Media Bureau

cc: Lawrence M. Miller, Esq. (via email only)